HIGH COURT OF UTARANCHAL AT NAINITAL

First Appeal No. 980 for 2001
Old NO. 640 of 1995

1. Shyam Singh (Since Deceased)
1/1 Smt. Bachni Devi W/o Late Sri Shyam Singh
R/o Village Dandeli, P.O Bhalegaon, District- Tehri Garhwal
Uttar Pradesh.
½ Sri Chandra Singh Rawat, S/o Late Sri Shyam Singh,
R/o 15-UF, Safdar Hashmi Marg, New Delhi- 110001.
1/3 Sri Darshan Singh Rawat, S/o Late Sri Shyam Singh.
R/o Village Dandeli, P.O. Bhalegaon, District- Tehri Garhwal
Uttar Pradesh.
¼ Sri Hari Singh Rawat, S/o Late Sri Shyam Singh,
R/o 15-UF, Safdar Hashmi Marg, New Delhi- 110001.
.....Appellants

Vs

State of Uttar Pradesh through the Collector, Tehri Garhwal,
New Tehri (U.P.) .....Respondents

Sri Anil Sharma learned counsel for the appellants.
Sri Nand Prasad learned counsel for the State.

Dated: -27-6-2006

Hon'ble B.S. Verma, J.

Heard Sri Anil Sharma learned counsel for the appellants and Sri Nand Prasad learned counsel for the respondents.

This appeal has been filed against the Judgment and decree dated 1 -8-1995 passed by Sri Braham Singh, District Judge, Tehri Garhwal, New Tehri in Land Acquisition Reference No3 of 1993 and the order dated 20-10-1995 passed in Review Petition dated 8-9-1995.

The land was acquired for Jal Nigam, this fact is not disputed that the Jal Nigam was not made party in the Reference. In view of the Judgment of the Apex Court in 1995(2) Supreme Court Cases page 326, U.P. Awas Evam Vikas Parishad Vs. Gyan Devi (Dead) by Lrs. And others. The acquiring

body is the proper party without going into the merits only on this ground alone, the award dated 1-8-1995 is liable to be set aside.

This is an admitted fact that the Jal Nigam was not heard by the reference Court and no notice was issued to it as the compensation has to be paid by the Jal Nigam in view of the Judgment of the Apex Court in 1995 (2) Supreme Court Cases page 326, U.P. Awas Evam Vikas Parishad Vs. Gyan Devi (dead) by Lrs And others, the acquiring body has right to appear and adduce evidence in proceedings before reference Court for determination of compensation. Therefore,, on this point I allow this appeal and remand the matter to the reference court to decide the references taking into account, the evidence led by the parties.

The appellant is directed to made the Jal Nigam party before the reference Court and the reference Court thereafter, issue notice to the Jal Nigam as well as the State and the reference Court shall decide the matter on merit after hearing both the parties.

Learned District Judge is directed to decide the case within a period of six months from the date of production of certified copy for this order.

Registry is directed to sent the lower court record back immediately to the Reference Court.

(B.S. Verma, J.)

Dated: -27-6-2006

M.K.